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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR    | ATTORNEY DOCKET NO.            | CONFIRMATION NO. |
|---|-------------|-------------------------|--------------------------------|------------------|
| 10/823,124  | 04/13/2004  | Ulrich Dajek            | PO8020/LcA 36,557              | 3505             |
| 157 7590 11/16/2007<br>BAYER MATERIAL SCIENCE LLC<br>100 BAYER ROAD<br>PITTSBURGH, PA 15205 |             |                         | EXAMINER<br>GILBERT, WILLIAM V |                  |
|   |             | ART UNIT<br>3635        | PAPER NUMBER                   |                  |
|   |             | MAIL DATE<br>11/16/2007 | DELIVERY MODE<br>PAPER         |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 10/823,124             | DAJEK ET AL.        |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | William V. Gilbert     | 3635                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 23 August 2007.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 7-13 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 7-13 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

|  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

This is a non-final action. Claims 1-6 have been cancelled.

Claims 7-13 are pending.

***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98 (b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 7 and 9-13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lim (U.S. Patent No. 5,560,672) in view of Dingler (U.S. Patent No. 6,505,454) and Wycech (U.S. Patent No. 6,270,600).

Claim 7: Lim discloses a section (Fig. 3: 30, 32) having a hollow interior made of metal (Col. 3: lines 55-60, though note that other materials may be used) and a support element (34) made of metal (Col. 3, lines 55-60, though note that other materials may be used), the support member is in the hollow interior and abutting a portion of the interior surface of the section, and at least one part of the section would deform plastically to fix the section together (Col. 2, lines 55-60: a weld results in plastic deformation). Lim does not disclose a

thermoplastic material molded onto and exterior surface of the section. Dingler discloses a structural member with a plastic material (Col. 2, lines 54-55) molded on the exterior surface. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to provide a plastic coating on the member in Lim in order to aid in the prevention of corrosion of the metal member and protect it from the outside elements, and it is well known in the art that plastic coatings provide such protection while maintaining the structural integrity of the member. Further, the prior art of record does not disclose molding thermoplastic material onto a portion of the exterior surface of the section such that it deforms against a portion of the section members and support element and attaching the members. Wycech discloses forming a structural member by attaching a metallic member (32) to a resinous component (30) and molding the component such that plastic deformation occurs. See process steps Fig. 7, 7a, see also structural member Fig. 9 where the resin attaches the metallic members). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to manufacture the member in Lim in view of Dingler in this manner because this method is well known in the art for the formation

of structural members and the molding of the thermoplastic and deformation of the members would result in the attachment of the members.

Claim 9: the support member is present and has a recess (see "A" below) and a portion of the section deforms into the recess. Lim in view of Findlay does not disclose that this occurs during the molding of the material onto the section to attach the support and section together. Wycech discloses a molding process of a structural member (Fig. 5), and plastic deformation occurs during the molding process (see Figs. 7, 7A). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use the method of making the member in Wycech to form the member in Lim in view of Dingler because this technique is well known in the art and the result would be the fixation of the support element and section together (see Lim Col. 2, lines 55-65 to note that other known attachment methods may be used to make the member.)

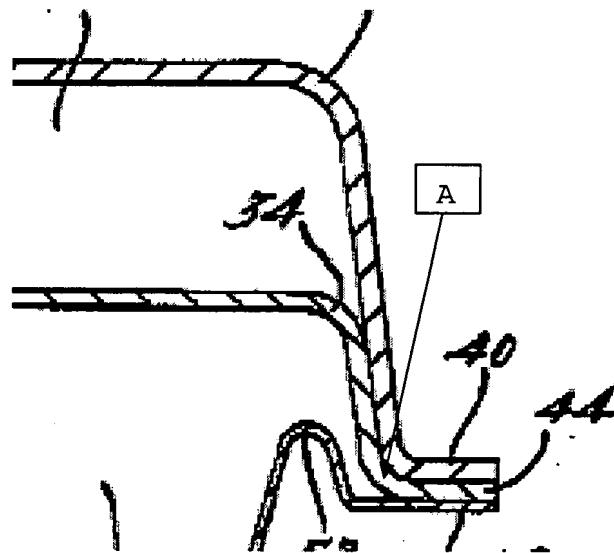


Figure 3 from Lim

Claim 10: the prior art of record discloses the claimed invention except that the attachment of the section occurs concurrently with the placing of the thermoplastic material on the section. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to perform these steps concurrently in order to maximize the efficiency of the manufacturing of the structure.

Claim 11-13: Lim discloses the claimed invention except that the support element is made from the materials as claimed. Dingler, however discloses that the support member (13) is made from polypropylene and can have filler included (Col. 4, lines 34-40). It would have been obvious at the time the invention

was made to a person having ordinary skill in the art to make the support member out of the material as claimed because these are functionally equivalent and would perform equally as well and the prior art Lim discloses that "other materials" may be used to construct the members (Col. 3, lines 55-60).

**Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Lim in view of Dingler and Wycech as applied to claim 7 above, and further in view of Findlay (U.S. Patent No. 3,084,401).

Claim 8: the prior art of record discloses the claimed invention including the section has two parts (Lim: 30, 32), each part having an edge region (40, 42, 48 and 50) and the portions of the edge regions abut each other and the edge regions are attached (Lim: Col. 2, lines 55-60). The prior art of record does not disclose an aperture and bead connection. Findlay discloses two pieces with a bead and aperture connection (Col. 2, lines 40-45). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to attach the sections in the prior art of record in the manner disclosed in Findlay because Lim discloses that other means of equivalent attachment are accepted (Lim: Col. 2, lines

55-60) and the bead and aperture connection in Findlay is an equivalent attachment. Further, the prior art of record does not disclose the attachment occurs during the process of molding the thermoplastic material. It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a design choice to perform these limitations concurrently in order to maximize efficiency of the manufacturing of the product.

***Response to Arguments***

3. The following addresses Applicant's remarks submitted 23 August 2007.

35 USC §112 rejection:

Applicant's amendments to Claims 9 and 10 overcome the rejection and it is withdrawn.

Rejection under 35 USC §103

Applicant's arguments, see page 5, filed 23 August 2007, with respect to the rejection(s) of claim(s) 7 under 35 U.S.C. §103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further

consideration, a new ground(s) of rejection is made in view of Lim, Dingler and Wycech (cited above).

Regarding Applicant's argument to the Findlay reference (cited above) used to reject Claim 8, while the Examiner agrees to the disclosed subject matter of the reference, the reference was used merely to show the connection feature. The primary reference (Lim, cited above) specifically discloses that known fastening techniques may be used to fasten the two members (see Col. 2, lines 55-65). As a result one of ordinary skill in the art at the time the invention was made could use the connection feature in Findlay to attach the two members in Lim.

#### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571.272.6777. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WVG

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